

complete paragraph (i) and (j) of this section. At the beginning of the application, the applicant should also include a narrative of the means by which the transfer or assignment will take place. The Commission reserves the right to request additional information as to the particulars of the transaction to aid it in making its public interest determination.

(5) If applying for authority to acquire facilities or to provide services not covered by Sections 63.XX(e)(1) through (4) of this rule, the applicant shall provide a description of the facilities and services for which it seeks authorization. Such description shall also include any additional information the Commission shall have previously specified in an order, public notice or other official action as necessary for authorization. Applicants for new submarine cable facilities also shall include a list of the proposed owners of the cable, their voting interests and ownership interests by segment in the cable.

(f) Applicants may apply for any or all of the authority provided for in paragraph (e) of this section in the same application. However, the applicant may want to separate applications for those services not subject to streamlined processing under Section 63.12 of these rules.

(g) Where the applicant is seeking facilities-based authority under paragraph (e)(5) of this section, a statement whether an authorization of the facilities is categorically excluded as defined by Section 1.1306 of the Commission's rules. If answered affirmatively, an environmental assessment as described in Section 1.1311 need not be filed with the application.

(h) A certification as to whether or not the applicant has an affiliation with a foreign carrier.

(1) The certification shall state with specificity each foreign country in which the applicant has an affiliation with a foreign carrier. For purposes of this certification:

(i) Affiliation is defined to include: A controlling interest by the applicant, or by any entity that directly or indirectly controls or is controlled by it, or that is under direct or indirect common control with it, in a foreign carrier or in any entity that directly or indirectly controls a foreign carrier; or a controlling interest in the applicant by a foreign carrier, or by any entity that directly or indirectly controls a foreign carrier.

(ii) Foreign carrier is defined as any entity that is authorized within a foreign country to engage in the provision of international telecommunications services offered to the public in that country within the meaning of the International Telecommunication Regulations, see Final Acts of the World Administrative Telegraph and Telephone Conference, Melbourne, 1988 (WATTC-88), Art. 1, which includes entities authorized to engage in the provision of domestic telecommunications services if such carriers have the ability to terminate telecommunications services which originate outside of their country.

(2) In support of the required certification, each applicant shall also provide the name, address, citizenship and principal businesses of its 10 percent or greater shareholders or other equity holders and identify any interlocking directorates.

(3) Each applicant that certifies that it has an affiliation with a foreign carrier in a named foreign country shall additionally certify that the applicant has not agreed to accept special concessions directly or indirectly from any foreign carrier or administration with respect to traffic or revenue flows between the U.S. and any foreign country which the

applicant may serve under the authority granted under this part and has not agreed to enter into such agreements in the future.

(i) For purposes of this paragraph, and of Sections 63.11(a)(2)(iii), 63.13(a)(4), and 63.14, special concession is defined as any arrangement that affects traffic or revenue flows to or from the U.S. that is offered exclusively by a foreign carrier or administration to a particular U.S. international carrier and not also to similarly situated U.S. international carriers authorized to serve a particular route.

(ii) The special concessions certification required by this paragraph and by Sections 63.11(a)(2)(iii) and 63.13(a)(4) shall be viewed as an ongoing representation to the Commission, and applicants/carriers shall immediately inform the Commission if at any time the representations in their certifications are no longer true. Failure to so inform the Commission will be deemed a material misrepresentation to the Commission.

(4) Each applicant that proposes to acquire facilities through the resale of the international switched or private line services of another U.S. carrier shall additionally certify as to whether or not the applicant has an affiliation with the U.S. carrier(s) whose facilities-based service(s) the applicant proposes to resell (either directly or indirectly through the resale of another reseller's service). For purposes of this paragraph, affiliation is defined as in paragraph (r)(1)(i) of this section, except that the phrase "U.S. facilities-based international carrier" shall be substituted for the phrase "foreign carrier."

(5) Each applicant that certifies under this section that it has an affiliation with a foreign carrier and that proposes to acquire facilities through the resale of the international private line services of another U.S. carrier shall additionally certify as to whether or not the affiliated foreign carrier owns or controls telecommunications facilities in the particular country(ies) to which the applicant proposes to provide service (i.e., the destination country(ies)). For purposes of this paragraph, telecommunications facilities are defined as the underlying telecommunications transport means, including intercity and local access facilities, used by a foreign carrier to provide international telecommunications services offered to the public.

(6) Each applicant and carrier authorized to provide international communications service under this part is responsible for the continuing accuracy of the certifications required by paragraphs (r)(4) and (5) of this section. Whenever the substance of any such certification is no longer accurate, the applicant/carrier shall as promptly as possible and in any event within 30 days file with the Secretary in duplicate a corrected certification referencing the FCC File No. under which the original certification was provided. This information may be used by the Commission to determine whether a change in regulatory status may be warranted under Section 63.10.

(7) Each applicant that certifies that it has an affiliation with a foreign carrier in a named foreign country and that desires to be regulated as nondominant for the provision of international communications service to that country may provide information in its application filed under this part to demonstrate that its affiliated foreign carrier does not have the ability to discriminate against unaffiliated U.S. international carriers through control of bottleneck services or facilities in the named foreign country. See Section 63.10, Regulatory Classification of U.S. International Carriers.

(i) Such a demonstration should address the factors that relate to the

scope or degree of the foreign affiliate's bottleneck control, such as:

(A) The monopoly, oligopoly or duopoly status of the destination country; and

(B) Whether the foreign affiliate has the potential to discriminate against unaffiliated U.S. international carriers through such means as preferential operating agreements, preferential routing of traffic, exclusive or more favorable transiting agreements, or preferential domestic access and interconnection arrangements.

(ii) Such a demonstration may also address other factors the applicant deems relevant to its demonstration, such as the effectiveness of public regulation in the destination country.

(i) A certification pursuant to Section 1.2001-1.2003 of the Commission's Rules that no party to the application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988. See 21 U.S.C. Section 853a.

**§ 63.05 Commencement and completion of construction for domestic common carriers.**

No change except insert "domestic" in the title.

**§ 63.12 Streamlined processing of certain international facilities-based and resale applications.**

(a) Except as provided by paragraph (c) of this section, a complete application seeking authorization under Section 63.XX(e)(1) and (2) of these rules to acquire facilities to provide international services shall be granted by the Commission 35 days after the date of public notice listing the application as accepted for filing.

(b) Issuance of public notice of the grant shall be deemed the issuance of Section 214 certification to the applicant, which may commence operation on the 36th day after the date of public notice listing the application as accepted for filing, but only in accordance with the operations proposed in its application and the rules, regulations, and policies of the Commission.

(c) The streamlined processing procedures provided by paragraphs (a) and (b) of this section shall not apply where:

(1) The applicant seeks authority under § 63.XX(e)(i) for global Section 214 authority to operate as a facilities-based carrier and the applicant has an affiliation with a foreign carrier; or

(2) The applicant has an affiliation within the meaning of § 63.XX(h)(1) with the U.S. facilities-based carrier whose international switched or private line services the applicant seeks authority to resell (either directly or indirectly through the resale of another reseller's services); or

(3) The applicant seeks authority under § 63.XX(e)(2) to resell international private line services and a foreign carrier with which it has an affiliation within the meaning of § 63.XX (h)(1) owns or controls telecommunications facilities in the country to which the applicant seeks authority to provide service (i.e., the destination country); or

(4) The applicant seeks authority under § 63.XX(e)(2) to resell international private line services to a country for which the Commission has not determined as of the date of public notice of the application that equivalent resale opportunities exist between the U.S. and the destination country; or

(5) The application is formally opposed within the meaning of § 1.1202(e) of this chapter; or

(6) The Commission has informed the applicant in writing including by public notice, within 28 days after the date of the acceptance for filing public notice, that the application is not eligible for streamlined processing under this section.

(d) Any complete application that is subject to paragraph (c) of this section will be acted upon only by formal written order, and operation for which such authorization is sought may not commence except in accordance with such order.

**§ 63.15 Special procedures for international service providers.**

(a) All parties shall file an application pursuant to § 63.XX(e)(5) for certification to construct, acquire or operate lines in any new major common carrier facility project.

**§ 63.XX Special procedures for discontinuances of international services.**

[This rule will replace Section 63.15(c)].

(a) Any nondominant international carrier as this term is defined in § 63.10 of this chapter that seeks to discontinue, reduce or impair service, including the retiring of international facilities, dismantling or removing of international trunk lines, shall be subject to the following procedures in lieu of those specified in §§ 63.61 through 63.601:

(1) The carrier shall notify all affected customers of the planned discontinuance, reduction or impairment at least 60 days prior to its planned action. Notice shall be in writing to each affected customer unless the Commission authorizes in advance, for good cause shown, another form of notice.

(2) The carrier shall file with this Commission a copy of the notification on or after the date on which notice has been given to all affected customers.

(b) Any dominant international carrier as this term is defined in § 63.10 of this chapter that seeks to retire international facilities, dismantle or remove international trunk lines, and the services being provided through these facilities are not being discontinued, reduced or impaired, shall only be subject to the notification requirements of paragraph (a) of this section. If such carrier discontinues, reduces or impairs service to a community or retires facilities that impair or reduce service to a community, the dominant carrier shall file an application pursuant to Section 63.62 and 63 500 of the Commission's rules.

**§ 63.XX Copies required; fees; and filing periods for international service providers.**

[Create a new rule applicable to international carriers. (Section 63.52)].

(a) Unless otherwise specified the Commission shall be furnished with an original and 5 copies of applications filed for international facilities and services under Section 214 of the Communications Act of 1934, as amended. Provided, however, that where applications involve only the supplementation of existing international facilities, and the issuance of a certificate is not required, an original and 2 copies of the application shall be furnished. Upon request by the Commission additional copies of the application shall be furnished. Each application shall be accompanied by the fee prescribed in Subpart G of Part 1 of this chapter.

(b) No application accepted for filing and subject to the provisions of §§ [63.xx], 63.02, 63.62 or 63.505 of the rules shall be granted by the Commission earlier than 21 days following issuance of public notice by the Commission of the acceptance for filing of such application or any major amendment unless said public notice specifies another time period.

(c) No application accepted for filing and not subject to streamlined processing shall be granted by the Commission earlier than 28 days following issuance of public notice by the Commission of the acceptance for filing of such application or any major amendment unless said public notice specifies another time period.

(d) Any interested party may file a petition to deny an application within the 21 day or other time period specified in paragraph (b) of this section. The petitioner shall serve a copy of such petition on the applicant no later than the date of filing thereof with the Commission. The petition shall contain specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be prima facie inconsistent with the public interest, convenience and necessity. Such allegations of fact shall, except for those of which official notice may be taken, be supported by affidavit of a person or persons with personal knowledge thereof. The applicant may file an opposition to any petition to deny, and the petitioners may file a reply to such opposition (see § 1.45 of this chapter), and allegations of facts or denials thereof shall similarly be supported by affidavit. These responsive pleadings shall be served on the applicant or petitioners, as appropriate, and other parties to the proceeding.

**§ 63.53 Form.**

(a) Applications under Section 214 of the Communications Act shall be submitted on paper not more than 21.6 cm (8.5 in) wide and not more than 35.6 cm (14 in) long with a left-hand margin of 4 cm (1.5 in). This requirement shall not apply to original documents, or admissible copies thereof, offered as exhibits or to specially prepared exhibits. The impression shall be on one side of the paper only and shall be double-spaced, except that long quotations shall be single-spaced and indented. All papers, except charts and maps, shall be typewritten or prepared by mechanical processing methods, other than letter press, or printed. The foregoing shall not apply to official publications. All copies must be clearly legible.

(b) Applications submitted under Section 214 of the Communications Act for international services may be submitted on computer diskettes pursuant to a filing manual compiled by the International Bureau. The manual will specify the type and format of the computer diskettes and the reporting and procedural requirements for such applications.

(c) Applications under Section 214 of the Communications Act or information submitted to the Commission in support of Section 214 applications for international services that are in a foreign language shall be accompanied by a certified translation in English.

**§ 63.62 Type of discontinuance, reduction, or impairment of telephone or telegraph service requiring formal application.**

Authority for the following types of discontinuance, reduction, or impairment of service shall be requested by formal application containing the information required by the Commission in the appropriate sections to this part, except as provided in paragraphs (c) and (e) of this section, or in emergency cases (as defined in § 63.60(b)) as provided in §§ 63.63:

(a) The dismantling or removal of a trunk line (for contents of application see § 63.500); for all domestic carriers and for dominant international carriers except as modified in § 63.XX of this part;

(b) The severance of physical connection or the termination or suspension of the interchange of traffic with another carrier (for contents of application, see § 63.501);

(c) [Reserved]

(d) The closure of a public toll station where no other such toll station of the applicant in the community will continue service (for contents of application, see § 63.504): Provided, however, That no application shall be required under this part with respect to the closure of a toll station located in a community where telephone toll service is otherwise available to the public through a telephone exchange connected with the toll lines of a carrier;

(e) The closure of, or reduction of hours of service at, a public coast station (for contents of application, see § 63.69) except that this paragraph shall not apply to the cases specified in § 63.70 where the carrier elects to follow the procedure prescribed in that section;

(f) Any other type of discontinuance, reduction or impairment of telephone service not specifically provided for by other provisions of this part (for contents of application, see § 63.505);

(g) An application may be filed requesting authority to make a type of reduction in service under specified standards and conditions in lieu of individual applications for each instance coming within the type of reduction in service proposed.

**§ 63.71 Special procedures for discontinuance, reduction or impairment of service by domestic non-dominant carriers.**

No change except for inserting the word "domestic" in the heading.



**§ 63.XX Conditions applicable to international Section 214 authorizations.**

International carriers authorized under Section 214 of the Communications Act must follow the following requirements and prohibitions:

(1) Carriers may not resell private lines for the provision of international switched services unless the country is deemed equivalent. See § 63.XX.

(2) Carriers must file copies of operating agreements entered into with their foreign correspondents within 30 days of their execution, and shall otherwise comply with the filing requirements contained in Section 43.51 of the Commission's Rules.

(3) Carriers must file tariffs pursuant to Section 203 of the Communications Act, 47 U.S.C. § 203, and Part 61 of the Commissions Rules, 47 C.F.R. § 61.

(4) Carriers must file annual reports of overseas telecommunications traffic required by § 43.61.

**§ 1.767 Cable landing licenses.**

(a) Applications for cable landing licenses under 47 U.S.C. 34-39 and Executive Order No. 10530, dated May 10, 1954, should be filed in duplicate and in accordance with the provisions of that Executive Order. These applications should contain the name, address and telephone number(s) of the applicant; the corporate structure and citizenship of officers if a corporation; a description of the submarine cable, including the type and number of channels and the capacity thereof; a general geographic description of the landing points which will be followed by a specific description of the cable landing location on the shore of the United States and in foreign countries where the cable will land (including a map) no later than 90 days prior to construction; and any other information that may be necessary to enable the Commission to act. A separate application shall be filed with respect to each individual cable system for which a license is requested, or for which modification or amendment of a previous license is requested.

(b) These applications are acted upon by the Commission after obtaining the approval of the Secretary of State and such assistance from any executive department or establishment of the Government as it may require.

(c) Original files relating to submarine cable landing licenses and applications for licenses since June 30, 1934, are kept by the Commission. Such applications for licenses (including all documents and exhibits filed with and made a part thereof, with the exception of any maps showing the exact location of the submarine cable or cables to be licensed) and the licenses issued pursuant thereto, with the exception of such maps, shall, unless otherwise ordered by the Commission, be open to public inspection in the offices of the Commission in Washington, D.C.

(d) Original files relating to licenses and applications for licenses for the landing operation of cables prior to June 30, 1934, were kept by the Department of State, and such files prior to 1930 have been transferred to the Executive and Foreign Affairs Branch of the General Records Office of the National Archives. Requests for inspection of these files should, however, be addressed to the Federal Communications Commission, Washington, D.C., 20554; and the Commission will obtain such files for a temporary period in order to permit inspection at the offices of the Commission.